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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,805	11/26/2003	Loic Grebonval	18,967	8193

23556 7590 06/09/2006

KIMBERLY-CLARK WORLDWIDE, INC.  
401 NORTH LAKE STREET  
NEENAH, WI 54956

EXAMINER
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NGUYEN, JOHN QUOC

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/722,805

Applicant(s)

GREBONVAL ET AL.

Examiner

John Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 3,4 and 28-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Applicant's election without traverse of the species of figs. 1-4, claims 1, 2, and 5-27 in the reply filed on 6/30/05 has been acknowledged. Claims 3, 4, and 28-62 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/30/05. It should be noted that claim 36 does not read on the elected species.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5-19, 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over FitzSimons et al (US-6899250) in view of Compton (US-4487376).

Fitzsimons et al discloses a wet and dry towel dispenser (especially figs. 4-8) having substantially all the claimed features including base 12 including a shroud, a support member including element/spindle 30 or 42 which is attached to all elements of the base. Openings 24 and 34 expose a portion of the roll. The angle is about 0 degrees (claim 12) and about 90 degrees (claim 13). The gap of claim 15 reads on openings 24 or 34. Note dispensing cover 28 and sealing ring surrounding dispensing opening 26. Relative to claim 19, note hinge 29. A portion of compartment 14 or 16 can also be a storage compartment. Relative to claim 23, note fig. 4 showing a refill cover 44. Compton discloses a vertical roll holder in which 100% of the roll is exposed as is old and well known. It would have been obvious to a person having ordinary skill in the art to enlarge the opening 24/34 of Fitzsimons et al to expose up to 100% as

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taught by Compton to facilitate dispensing of the dry roll, the chosen amount, such as one between that shown by Fitzsimons et al (about 10%) and Compton (100%) which includes the claimed 50-100%, would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as preference and design criteria (such as desired exposed amount). Since the rolls of Fitzsimons et al and Compton appear to be standard rolls, the spindle is deemed to have the claimed dimensions or, alternatively, the claimed dimensions would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as preference, design criteria, space optimization, and costs. Compressible seal such as o-rings and gaskets are considered prior art since Official notice was previously taken. Therefore the use of such a compressible seal in the cover which would then inherently spring open the cover would have been obvious to a person having ordinary skill in the art to provide a more effective seal of the dispensing opening.

Claims 20, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over FitzSimons et al in view of Compton as applied to claims 1, 2, 5-19, 22-26 above, and further in view of Bando et al (US-6206221)

Bando et al discloses another similar apparatus in which a dispensing cover 23 springs open by activating a button 90. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of FitzSimons et al with a cover and button as taught by Bando et al to facilitate opening the dispensing cover. A soft-pack wet wipe package 40 with a removable sheet 45 is used as the source of wet wipe.

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That the removable sheet is a label would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as ornamental preference and design criteria and also since such is also old and well known in the art and Official notice of such is hereby taken. It would have been obvious to a person having ordinary skill in the art to provide the wet wipe package of Fitzsimons as a soft-pack as taught by Bando et al to facilitate inserting the package into the dispenser.

Applicant's arguments filed 5/16/06 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is old and well known to expose the roll 100% as shown by Compton to provide ready access and facilitate grabbing and dispensing the material. Therefore, the larger the opening of Fitzsimons et al is made, the more the roll is readily accessible and grabbing and dispensing is facilitated. In other words, it is old and well known that a large opening (100%) as shown by Compton is user friendly and a small opening like in fig. 5 of Fitzsimons et al reduces exposure to contaminants; therefore, to enlarge the opening of

Fitzsimons et al such that about 50% of the roll surface is exposed would have been an obvious design choice to a person having ordinary skill in the art who's choosing a desired balance between easier access and dispensing and the need to reduce exposure to contaminants.

It should also be noted that one of ordinary skill in the art is presumed to be skilled, not unskilled, and would have obviously recognized that the modification to expose 100% would eliminate the required support wall which support the enclosure for the wet wipes. The examiner suggested a "chosen amount" which obviously refers to an amount between that shown by Fitzsimons and Compton.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

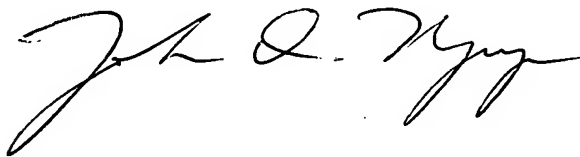
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-

6952. The examiner can normally be reached on Monday-Thursday, from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'John Q. Nguyen', with a stylized, cursive script.

John Q. Nguyen  
Primary Examiner  
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